

## **REMARKS**

Claims 1, 3-26, 28-31, 33 and 34 are pending prior to entering this amendment. The Examiner objected to the specification for failing to provide proper antecedent basis for the claimed subject matter. The Examiner objected to claim 25 for informalities. The Examiner rejected claims 20-25 under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. The Examiner rejected claims 4, 5, 10-13, 15-25, 33 and 34 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claims the subject matter which applicant regards as the invention. The Examiner rejected claims 1, 3-6, 8, 20, 21, 23-26, and 28-30 under 35 U.S.C. § 102(e) over Eddy (U.S. Patent No. 7,325,193). Applicant amends claims 1, 3-26, and 33-34. Claims 1, 3-26, 28-31, and 33-34 remain after entering this amendment. Applicant adds no new subject matter and requests reconsideration.

### **Allowable Subject-Matter**

Applicant thanks the Examiner for allowing claims 9 and 31. The Examiner objected to claims 14-19 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant thanks the Examiner for pointing out allowable subject-matter.

### **Examiner Interview**

Applicant thanks the Examiner for conducting an interview to discuss the claim rejections and objections. Although no agreement was reached, the Examiner provided guidance in responding to some of the objections and rejections.

### **Specification Objections**

Applicant amends the specification, which obviates the Examiner's objection.

### **Claim Objections**

Applicant amends claim 25, which obviates the Examiner's rejection.

### **Claim Rejections – 35 USC § 112**

The Examiner rejected claims 4, 5, 10-13, 15-25, and 33-34 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claims the subject matter which applicant regards as the invention. Applicant amends claims 1, 3-26, and 33-34, which obviates the Examiner's rejections.

### **Claim Rejections – 35 USC § 101**

The Examiner rejected claims 20-25 under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Applicant amends claim 20, which obviates the Examiner's rejection.

### **Claim Rejections – 35 USC § 102**

The Examiner rejected claims 1, 3-6, 8, 20, 21, 23-26, and 28-30 under 35 U.S.C. § 102(e) over Eddy. Applicant respectfully traverses the Examiner's rejection.

Applicant amends claims 1 and 20 to include similar features that the examiner found allowable in claims 9 and 31. For instance, claim 1 recites:

*determining whether the registered user is entitled to download software from the software distribution system, where the registered user is entitled to download software when the registered user has provided financial consideration for the software to be downloaded or established a service contract corresponding to the software to be downloaded, and*

*providing the registered user access to software available for distribution that the registered user is entitled to download from the software distribution system, where the registered user downloads software from the software distribution system when the registered user is entitled to download software from the software distribution system.* Claim 20 recites similar features.

Since the Examiner deemed similar subject-matter allowable in claims 9 and 31, the Examiner and Applicant appear to be in substantial agreement that the features added to claims 1 and 20 are not taught or suggested by Eddy. The Examiner alleges Eddy's content management system discloses the recited software distribution system. Eddy, however, does not teach or suggest determining whether the registered user is entitled to download software from the software distribution system, where the registered user is entitled to download software when the

registered user has provided financial consideration for the software to be downloaded or established a service contract corresponding to the software to be downloaded, or providing the registered user access to software available for distribution that the registered user is entitled to download from the software distribution system, where the registered user downloads software from the software distribution system when the registered user is entitled to download software from the software distribution system as the claims require. See, Eddy, Figure 3, col. 7, lines 40-43; col. 12, lines 36-37, where Eddy discloses controlling access to content by limiting what content is approved to be presented in a generally available web-site. In other words, Eddy's content approval procedure for limiting availability of content is distinctly different than the recited determining whether the registered user is entitled to download software from the software distribution system or providing the registered user access to software available for distribution that the registered user is entitled to download from the software distribution system. Eddy therefore does not anticipate claims 1 and 20, or their corresponding dependent claims.

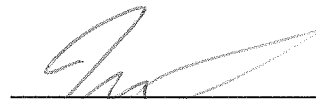
With respect to claims 26, 28-30, the Examiner indicated the features associated with the recited processor were not given patentable weight, as they "amount to mere recitations of intended use...since they have no effect on the structure of the claimed apparatus." See, Office Action, page 10. Applicant amends claim 26 to recite *a computer usable medium to store instructions, and a processor, when executing one or more instructions stored by the computer usable medium, is configured to...* Applicant therefore requests the Examiner give the remaining features of claim 26 patentable weight. Since claim 26 includes features generally similar to those in allowed claims 9 and 31, claim 26, and its corresponding dependent claims, are allowable for similar reasons.

### CONCLUSION

For the foregoing reasons, reconsideration and allowance of all claims of the application as amended is requested. The examiner is encouraged to telephone the undersigned at (503) 224-2170 if it appears that an interview would be helpful in advancing the case.

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